

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

NOMADIX, INC., ) Case No. CV 09-08441 DDP (VBKx)  
)  
Plaintiff, ) **ORDER DENYING PLAINTIFF'S EX**  
) **PARTE APPLICATION RE TRIAL**  
v. ) **EXHIBIT EXCHANGE**  
)  
HEWLETT-PACKARD COMPANY, a ) [Docket No. 888]  
Delaware corporation; )  
WAYPORT, INC., a Delaware )  
corporation; IBAHN )  
CORPORATION, a Delaware )  
corporation; GUEST-TEK )  
INTERACTIVE ENTERTAINMENT )  
LTD., a Canadian )  
corporation; et al. )  
)  
Defendants. )  
\_\_\_\_\_ )

Presently before the court is Plaintiff's Ex Parte Application Re Trial Exhibit Exchange ("Application"). Having reviewed the parties' submissions, the court denies the Application, and adopts the following Order.

Plaintiff Nomadix, Inc. ("Nomadix") is scheduled to go to trial against Defendant Hewlett Packard Company ("HP") in July 2012. In this Ex Parte Application, Nomadix asks the court to allow Nomadix to disclose to HP certain documents that it received

1 in discovery from other Defendants. Defendants had designated  
2 these documents as confidential and provided them to Nomadix  
3 subject to a September 15, 2010 Protective Order, to which the  
4 parties had stipulated. Although the Protective Order authorizes  
5 some disclosure of such documents, it does not permit the receiving  
6 party to disclose them to other parties or their counsel.

7 In support of its Application, Nomadix argues that: 1) it only  
8 seeks to disclose a limited number of confidential documents to HP;  
9 2) Defendants have already selectively shared certain confidential  
10 documents among themselves; 3) the Protective Order clearly  
11 contemplates the use of such documents at trial, since they can be  
12 disclosed to the court and jurors in this action; and 4) Defendants  
13 have not claimed any actual prejudice from the proposed disclosure  
14 of the documents, which Defendants unilaterally designated as  
15 confidential. In their Oppositions to the Application, a number of  
16 the non-HP Defendants respond that: 1) the parties carefully  
17 crafted and negotiated the Protective Order to balance their needs;  
18 2) Nomadix has not specifically identified why it needs to disclose  
19 the proposed documents to HP; and 3) these documents are in fact  
20 both quantitatively and qualitatively substantial, since they  
21 include thousands of pages and contain highly sensitive technical,  
22 financial, and sales information. In its own Opposition, HP adds  
23 that Nomadix's late disclosure of the confidential documents would  
24 prejudice HP, since fact discovery has closed and HP has therefore  
25 lost the opportunity to conduct any discovery as to information  
26 contained in the documents. All of the opposing Defendants also  
27 argue that Nomadix has unduly delayed in seeking this modification  
28

1 to the Stipulated Protective Order, since it could have done so  
2 months ago through a regularly noticed motion.

3 The court need not address the parties' substantive arguments  
4 as to the requested Protective Order modification. The court  
5 agrees with the opposing Defendants that Nomadix has not been  
6 sufficiently diligent in seeking this modification. The court  
7 approved the stipulated Protective Order in 2010. In late January  
8 2012, Nomadix provided to HP an expert report with certain portions  
9 redacted, because those portions relied on other Defendants'  
10 confidential documents. In February 2012, the parties conferred  
11 and Defendants made clear their objections to Nomadix's disclosure  
12 of the documents. Nomadix, however, did not seek to modify the  
13 Protective Order until it filed this Ex Parte Application on April  
14 29, 2012. Accordingly, Nomadix had ample time to file a regularly  
15 noticed motion once the disagreement about confidential documents  
16 became apparent. Nomadix failed to do so, and therefore lacks good  
17 cause to now modify the protective order.

18 For all of these reasons, the court hereby DENIES Nomadix's Ex  
19 Parte Application.

20  
21 IT IS SO ORDERED.

22  
23  
24 Dated: May 24, 2012

  
DEAN D. PREGERSON  
United States District Judge